THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 5013 of 2007

Dated: 13.03.2007

Between:

P.J. Prasad and others.

..... PETITIONERS

AND

The Regional Manager, APSRTC,
Hyderabad City Region, JBS, Picket,
Secunderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 5013 of 2007

Order:

The present writ petition is filed questioning the action of the respondents in not granting special grade/stagnation increments to the petitioners on completion of 12 years of total service from the date of their appointment.

The petitioners herein are employed in the respondents-Corporation as Shramiks/Cleaners and they completed 12 years of service in the same category. The petitioners allege that the Corporation issued a Circular, dated 03.06.1989, to extend stagnation increment/special grade increment on completion of twelve years of service in the same category and the said benefit was not extended to them. It is further stated that on request for extension of 12 years stagnation increment, the respondents informed them that the circular dated 03.06.1989 was amended by Circular No.PD-30 of 2005, dated 04.06.2005, whereby stagnation increments are being allowed extending the monetary benefits with effect from 01.04.2005 only. The petitioners contend that earlier the monetary benefits were extended from the date of completion of 12 years service and extension of monetary benefits with effect from 01.04.2005 is irrational and unjust. Hence, the present writ petition.

The learned Standing Counsel for the respondents-Corporation submitted that similar matter was considered by a Division Bench of this

Court in W.A. No. 2151 of 2005 and the Division Bench of this Court, considering the earlier Division Bench judgments in W.A. No. 1301 of 2000, dated 29.10.2002 and W.A
No. 1812 of 2004, dated 24.11.2004 (Reported in 2005 (3) ALD 389) and the circular No.PD-30/2005 dated 04.06.2005 partly allowed the appeal modifying the orders of the learned Single Judge by restricting the entitlement of the respondent–workman only w.e.f. 01.04.2005, but not prior thereto.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Corporation and perused the judgment in W.A. No.2151 of 2005, dated 22.08.2006.

The Division Bench of this Court in W.A. No. 2151 of 2005, dated 22.08.2006 having referred to the earlier Division Bench judgments of this Court, held as under:

> "…….The settlement and the circular contemplate that the pay will be fixed notionally from the date of eligibility but the monetary benefit will be allowed consequent on such pay fixation w.e.f. 1.4.2005 only. Therefore having regard to such agreed specific term as contained in the settlement, the pay of an employee shall be fixed notionally from the date of eligibility and the monetary benefit consequent on such pay fixation shall be paid from 1.4.2005. It is needless to mention that common settlement which is entered into between the employees and the management under sub section 3 of Section 12 of Industrial Disputes Act, will have a total binding on both the management as well as employees and therefore, the question of overlapping the agreement entered into between the management and the union, does not arise nor is permissible. Further having regard to such a restriction as to such entitlement, it is not open for any of the employees to call back and claim the monetary benefit for such an entire period or any period prior to 1.4.2005 as agreed to in the said settlement. But, these aspects as to the existence of settlement and consequent circular which has reiterated the terms agreed to between the parties, have not come up for consideration before either of the aforesaid two Division Benches nor the settlement following up circular is

> subsequent to both the said decisions. Therefore the entitlement of any such monetary benefit for the period prior to 1.4.2005, as held in the aforesaid two decisions, cannot be a valid proposition and it automatically gets superceded by the settlement as stated above and the benefit restricted w.e.f. 1.4.2005.
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> However, since the settlement and the circular are only subsequent events which took place subsequent to the aforesaid two decisions, the same are binding on the respondent. In view of th aforesaid settlement and the following circular, we hold that the respondent-writ petitioner is entitled to the monetary benefit only from 1.4.2005, but not prior thereto.

The issue raised in the present writ petition is squarely covered by the order of the Division Bench in W.A. No. 2151 of 2005, dated 22.08.2006. Hence, following the above judgment, the present writ petition is disposed of directing the respondents to fix the scale of the petitioners notionally from the date of their eligibility and to make necessary payments with effect from 01.04.2005 in terms of Circular PD-30/2005, dated 04.06.2005. No costs.

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N.V. RAMANA, J.

Date: 13.03.2007
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